IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

OP.No. 11659 of 1999(K)

PETITIONER:

SUSHA KUMARI, KIZHAKKETHIL VEEDU,
KACHIKONOM, POIKMUKKU P.O., ATTINGAL.

BY ADV. SRI.D.SOMASUNDARAM

RESPONDENTS:
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1. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM.

2. CHEMPUR SERVICE CO-OPERATIVE BANK LTD.,
NO.202, MUDAKKAL P.O., ATTINGAL,
REPRESENTED BY ITS SECRETARY.

(*)ADDL.R3 STATE OF KERALA,
REPRESENTED BY ITS JOINT SECRETARY TO GOVERNMENT,
CO-OPERATIVE © DEPARTMENT,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

[(*) ADDL.R3 IMPLEADED AS PER ORDER DATED 10/03/2000 IN C.M.P.NO.11535/2000]

BY GOVERNMENT PLEADER, SRI P.K.RAVIKRISHNAN FOR R1 AND R3

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 01/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.18791/1999 IN O.P.NO.11659/1999

DISMISSED.

SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

01/12/2007

APPENDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF THE APPOINTMENT ORDER NO.3867/87-88 DATED 12.6.88 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT

EXT.P2 TRUE COPY OF THE ORDER NO.CRP(1)8939/86 DATED 8/1/87 OF THE 1ST RESPONDENT.

EXT.P3 TRUE COPY OF THE NOTIFICATION ISSUED BY THE BANK.

EXT.P4 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER ALONG WITH THREE COLLECTORS BEFORE THE 1ST RESPONDENT DATED 8/10/1997.

EXT.P5 TRUE COPY OF THE ORDER NO.CRP(2)7360/97 K.DIS DATED 28/4/99 ISSUED BY THE 1ST RESPONDENT.

EXT.P6 TRUE COPY OF THE STATEMENT OF STAFF POSITION UNDER CLASS III OF APPENDIX III - SECTION 80 OF K.C.S. ACT OF THE 2ND RESPONDENT.

EXTS.IN C.M.P.NO.11534/2000

EXT.P6 TRUE COPY OF THE APPEAL MEMORANDUM FIXED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 10/6/99

EXT.P7 TRUE COPY OF THE ORDER G.O.(RT) NO.56/2000/CO-OP. DATED 28/1/2000 PASSED BY THE 3RD RESPONDENT.

\\TRUE COPY//

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No. 11659 of 1999-K

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Dated this the 1st day of December, 2007

J U D G M E N T

As per the approved staff pattern of the second respondent Co-operative Bank, there were three posts of bill collectors. Appropriate tests and interview were conducted and a list of seven persons was prepared. From that list, four persons were appointed by taking note of the fact that one bill collector was promoted as a peon. That was done on 11/06/1988. Sometime in 1999, the Joint Registrar issued directions by holding that the petitioner is an excess hand and, therefore, not entitled to occupy the post. The plea of the petitioner that she was continuing for a fairly long time, i.e., more than 11 years did not find favour of the Government and, accordingly, Ext.P7 was issued affirming the decision of the Joint Registrar. The Government did not, however, specifically overrule the contention that the appointment of four persons was done in anticipation of the promotion of one of the employees as peon.

2. This Court had issued an order of stay of termination of the petitioner's service. That order, passed on 11/05/1999, still continues to hold the field.

3. Having regard to what is aforesaid, it can be easily noticed that the petitioner has been discharging the duties and responsibilities of a bill collector from 12/06/1988, and it will be unjust to disturb the situation as of now.

For the aforesaid reasons, I find that the impugned orders are unsustainable. They are accordingly, quashed. The original petition is allowed as prayed for. No costs.

THOTTATHIL B. RADHAKRISHNAN,
Judge

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No. 11659 of 1999-K

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J U D G M E N T

1st December, 2007